BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

PATRICIA YOUNG)
Claimant VS.))) Docket No. 205,748
CHARLIE'S RESTAURANT Respondent) DOCKET NO. 200,740
AND	
UNITED FIRE & CASUALTY Insurance Carrier	}

ORDER

Claimant requests review of the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore dated February 16, 1996.

<u>Issues</u>

The Administrative Law Judge denied claimant's request for benefits because claimant failed to prove she sustained personal injury by accident arising out of and in the course of her employment with the respondent. Claimant requested this review and asks the Appeals Board to review that finding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds:

The preliminary hearing Order of the Administrative Law Judge should be affirmed.

Claimant has a severe ongoing condition of osteoporosis which causes her bones to lose density and fracture. Claimant testified in the three-year period before her alleged accident on July 24, 1995, she had sustained three fractures to the right hip and two fractured toes on the left foot.

Based upon the testimony of Wichita rheumatologist Richard B. Lies, M.D., the Appeals Board finds that the fractures claimant sustained to the bones in her foot on or

about July 24, 1995 are the natural manifestation of her osteoporosis rather than the result of any work activity. Based upon a review of the entire record, the Appeals Board finds claimant has failed to prove for preliminary hearing purposes that she sustained personal injury by accident to her foot which arose out of and in the course of her employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore dated February 16, 1996, should be, and hereby is, affirmed.

IT IS SO ORDERED.
Dated this day of April 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Alice Knetsch MacBeth, Wichita, KS Gregory D. Bell, Topeka, KS Bruce E. Moore, Administrative Law Judge Philip S. Harness, Director